

Service Date: December 4, 2001

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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| IN THE MATTER OF BUSINESS SAVINGS |) | UTILITY DIVISION |
| PLAN, Complaint by the Montana Public |) | |
| Service Commission Regarding Unauthorized |) | DOCKET NO. D2001.7.101 |
| Changes in Customers' Telecommunications |) | |
| Carriers |) | ORDER NO. 6386 |

DEFAULT ORDER AND FINE

On September 20, 2001, the Montana Public Service Commission (PSC) issued a Complaint against Business Savings Plan (BSP). The Complaint identified five instances in which BSP changed the telecommunications carrier of customers in Montana without authorization by the customers. Such actions by BSP are in violation of Montana laws pertaining to changes in telecommunications carriers. *See, § 69-3-1303, MCA, and ARM 38.5.3801.*

By the terms of the Complaint BSP was allowed 20 days to file its response. A response to a Complaint is an Answer. *ARM 38.2.2107.* BSP has not filed a response in accordance with that rule. BSP submitted a letter as of October 9, 2001. The letter appears to admit the violations (i.e., there were no customer authorizations in regard to the changes) and includes a narrative explanation, referencing matters such as acquisition of databases of other carriers. The PSC does not view such matters as a valid or legal defense. On October 17, 2001, the PSC directed (by fax and mail) a request for information (eight questions) to BSP regarding the Complaint and the BSP letter response. Responses to those questions were due October 25, 2001. BSP has not responded to the questions. BSP's actions in not responding have deprived the PSC of any means of determining whether BSP may have some defense the PSC could view as legitimate.

The PSC determines that BSP is in default for failure to file an Answer to the Complaint. To the extent BSP's letter can be viewed as a response it appears to admit the violations alleged in the Complaint. The PSC also determines BSP is in default for failure to respond to the PSC

questions. BSP is subject to a fine of up to \$1,000 for each violation. § 69-3-1305(3), MCA. The PSC determines BSP should be fined the maximum amount of \$1,000 per violation. There are five violations as set forth in the Complaint.

IT IS HEREBY ORDERED, Business Savings Plan is in violation of § 69-3-1303, MCA, and ARM 38.5.3801 through failing to obtain customer authorization prior to change in the customer's telecommunications carrier in five instances identified in the Complaint initiating the above matter, and Business Savings Plan must pay \$1,000 per violation for a total of \$5,000 to the Montana Public Service Commission within 30 days of the service date of this Order.

Done and dated this 20th day of November, 2001, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman

JAY STOVALL, Vice Chairman

BOB ANDERSON, Commissioner

MATT BRAINARD, Commissioner

BOB ROWE, Commissioner

ATTEST:

Rhonda J. Simmons
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.